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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,175	08/11/2003	Richard C. Everett	03KS02	3765

7590 06/22/2006  
Edward E. Roberts  
P.O. Box 3206  
Dana Point, CA 92629

EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/638,175

Applicant(s)

EVERETT, RICHARD C.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments with respect to claims 1-10 and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Patent No. 5,934,757).

Smith teaches a flexible seat 50 for attachment to a three-wheeled collapsible jogging stroller, said seat comprising opposing side portions; means 73 coacting with said side portions for enabling attachment of said seat to a main frame of the stroller to span said opposing side portions in free suspension therefrom; a seating portion between said opposing side portions; a leg rest portion between said opposing side portions below said seating portion; and said seat includes transversely extending stiffening means 77 (see column 3, lines 30-34) between said seating portion and said leg rest portion for providing transverse support of said seat, wherein said seat stiffening means is unattached to the frame of said stroller and defines the juncture of said seating portion and said leg rest portion (See Fig. 2, wherein said unattached seat stiffening means collapses along with the fabric of said seat thereby allowing unobstructed collapsing of said stroller, wherein said seat includes attachment means for receiving said stiffening means at the underside of said seat (see Fig. 3), wherein said stiffening means is mated with the fabric of said seat to thereby provide transverse stability to support said seat at the juncture of said seating portion and said leg rest portion, wherein said seat includes means for receiving said stiffening means at the

underside of said seat at the junction of said seating portion and said leg rest portion approximately beneath the knees of the occupant (see Fig. 3), wherein said seat is of unitary one piece flexible material and said seating portion is generally contoured to the anatomy of the occupant.

Claims 1 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreamer (U.S. Patent No. 6,722,689 B2).

Kreamer teaches a flexible seat 30 for attachment to a three-wheeled collapsible jogging stroller, said seat comprising, opposing side portions; means coacting with said side portions for enabling attachment of said seat to a main frame of the stroller to span said opposing side portions in free suspension therefrom; a seating portion between said opposing side portions; a leg rest portion between said opposing side portions below said seating portion; and said seat includes transversely extending stiffening means (not shown but the well-defined front edge of seat 38 shown in Fig. 1 clearly shows a some type of stiffening means that gives the seat its shape as shown in Fig. 1 and the well-defined front edge of the seat portion 38) between said seating portion and said leg rest portion for providing transverse support of said seat, wherein said stiffening means is mated with the fabric of said seat to thereby provide transverse stability to support said seat at the juncture of said seating portion and said leg rest portion, wherein said seat includes means for receiving said stiffening means at the underside of said seat at the junction of said seating portion and said leg rest portion approximately beneath the knees of the occupant (see Fig. 1), wherein said seat is of

unitary one piece flexible material and said seating portion is generally contoured to the anatomy of the occupant.

Claims 1 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Eichorn (U.S. Patent No. 5,590,896).

Eichorn teaches a flexible seat for attachment to a three-wheeled collapsible jogging stroller, said seat comprising, opposing side portions; means coacting with said side portions for enabling attachment of said seat to a main frame of the stroller to span said opposing side portions in free suspension therefrom; a seating portion between said opposing side portions; a leg rest portion 810 between said opposing side portions below said seating portion; and said seat includes transversely extending stiffening means between said seating portion and said leg rest portion for providing transverse support of said seat (the cross bars that connect seat tubes 50,60 in Fig. 1C), wherein said stiffening means is mated with the fabric of said seat to thereby provide transverse stability to support said seat at the juncture of said seating portion and said leg rest portion, wherein said seat includes means for receiving said stiffening means at the underside of said seat at the junction of said seating portion and said leg rest portion approximately beneath the knees of the occupant (see Fig. 1C), wherein said seat is of unitary one piece flexible material and said seating portion is generally contoured to the anatomy of the occupant.

Claims 1 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (U.S. Patent No. 6,155,628).

Williams teaches a flexible seat for attachment to a three-wheeled collapsible jogging stroller, said seat comprising, opposing side portions; means coacting with said side portions for enabling attachment of said seat to a main frame of the stroller to span said opposing side portions in free suspension therefrom; a seating portion between said opposing side portions; a leg rest portion 810 between said opposing side portions below said seating portion; and said seat includes transversely extending stiffening means between said seating portion and said leg rest portion for providing transverse support of said seat (Fig. 1 clearly shows a legrest extending from the seat portion of the seat of the stroller with a defined edge at the juncture of the seat portion and the legrest), wherein said stiffening means is mated with the fabric of said seat to thereby provide transverse stability to support said seat at the juncture of said seating portion and said leg rest portion, wherein said seat includes means for receiving said stiffening means at the underside of said seat at the junction of said seating portion and said leg rest portion approximately beneath the knees of the occupant wherein said seat is of unitary one piece flexible material and said seating portion is generally contoured to the anatomy of the occupant(see Fig. 1C).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Schmidlin et al, Eyman et al, Thimmig, Shapiro, Lin, and

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Lan, teach cross bars that can very well be considered "stiffening means", since they are at a "junction" where a legrest may be extend from the seat portion of a stroller though they do not show or specify that the strollers have a legrest. Ziegler et al, Wheeler, III et al, and Sutherland et al, teach stiff edges at a junction where a legrest extends from a seat portion of the stroller but it is not clear how that stiff, defined edge is formed. They could very well be used as 102 art rejections as well.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
June 16, 2006